No. 6175

SWEDEN
and
FEDERAL REPUBLIC OF GERMANY

Agreement for the avoidance of double taxation with respect to taxes on income and fortune and various other taxes. Signed at Stockholm, on 17 April 1959

Official texts: Swedish and German.

Registered by Sweden on 8 May 1962.

SUÈDE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune et de divers autres impôts. Signée à Stockholm, le 17 avril 1959

Textes officiels suédois et allemand.

Enregistrée par la Suède le 8 mai 1962.

[TRANSLATION — TRADUCTION]

No. 6175. AGREEMENT[1] BETWEEN THE KINGDOM OF SWEDEN AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE AND VARIOUS OTHER TAXES. SIGNED AT STOCKHOLM, ON 17 APRIL 1959

The Kingdom of Sweden and the Federal Republic of Germany, desiring to avoid double taxation with respect to taxes on income and fortune and various other taxes, have agreed to conclude an Agreement.

For this purpose they have appointed as their plenipotentiaries :

His Majesty the King of Sweden :

Mr. Östen Undén, Minister of Foreign Affairs,

The President of the Federal Republic of Germany :

Dr. Hans-Ulrich von Marchtaler, Ambassador of the Federal Republic of Germany at Stockholm,

who, having exchanged their full powers, found in good and due form, have agreed as follows :

Article 1

(1) The purpose of this Agreement is to prevent the double taxation of persons resident in either or both States in respect of direct taxes (or surtaxes) levied under the legislation of each State on income or fortune or on other bases, on behalf of the States or *Länder*, municipalities or associations of municipalities.

(2) For the purposes of this Agreement, the term "person" includes both individuals and legal persons. Partnerships and assets which are liable as such to taxation in the same manner as legal persons shall be deemed to be legal persons for the purposes of this Agreement.

Article 2

(1) The taxes which are the subject of this Agreement are :

1. In the Federal Republic of Germany :

[1] Came into force on 17 September 1960, one month after the exchange of the instruments of ratification at Bonn, in accordance with article 27.

(*a*) The income tax (*Einkommensteuer*) (including the wages tax (*Lohnsteuer*), the tax on income from capital (*Kapitalertragsteuer*) and the tax on directors' fees (*Aufsichtsratsteuer*),
(*b*) The corporation tax (*Körperschaftsteuer*),
(*c*) The tax on fortune (*Vermögensteuer*),
(*d*) The business tax (*Gewerbesteuer*),
(*e*) The land tax (*Grundsteuer*),

2. In the Kingdom of Sweden :
(*a*) The State income tax (*den statliga inkomstskatten*),
(*b*) The coupon tax (*Kuponskatten*),
(*c*) The forestry tax (*skogsvardsavgiften*),
(*d*) The seamen's tax (*sjömansskatten*),
(*e*) The tax on distributed profits (*utskiftningsskatten*) and the tax on undistributed profits (*ersättningsskatten*),
(*f*) The State fortune tax (*den statliga förmögenhetsskatten*),
(*g*) The general municipal tax (*den allmänna kommunalskatten*),
(*h*) Taxes on special advantages and privileges (*bevillningsavgifterna för särskilda förmaner och rättigheter*).

(2) The Agreement shall also apply to any identical or substantially similar taxes which may be imposed by either State after the signature of the Agreement.

(3) The chief taxation authorities of the States shall notify each other of the introduction of new taxes or of material changes in or the abolition of existing taxes covered by this Agreement.

(4) The chief taxation authorities of the States shall by mutual agreement resolve any doubts which arise as to the taxes to which this Agreement is applicable.

Article 3

(1) Where the expression "a person resident in either State" is used, the following shall apply :

(*a*) For the purposes of this Agreement, the expression "a person resident in one of the two States" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other similar criterion.

(*b*) Where by reason of the provisions of (*a*) an individual is a resident of both States, the following shall apply :

1. He shall be deemed to be a resident of the State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which he has the closer personal and economic relations (centre of vital interests).
2. If the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has his habitual abode.
3. If he has his habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national.
4. If he is a national of both States or of neither of them, the chief taxation authorities of the States shall determine the question by mutual agreement.

(*c*) Where by reason of the provisions of (*a*) a legal person is a resident of both States, then it shall be deemed to be a resident of the State in which its place of actual management is situated.

(2) The expression "enterprise of either State" or "enterprise of the other State" means, as the context requires, a business enterprise conducted by a person resident in the Kingdom of Sweden or by a person resident in the Federal Republic of Germany.

(3) The term "permanent establishment" means a fixed place of business in which the activity of the enterprise is wholly or partly carried on.

(*a*) The following shall, in particular, be deemed to be permanent establishments :

1. A place of management,
2. A branch,
3. An office,
4. A factory,
5. A workshop,
6. A mine, quarry or other place of extraction of natural resources,
7. A building site or construction or assembly project which exists for more than twelve months.

(*b*) The following shall not be deemed to constitute permanent establishments :

1. The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise ;
2. The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery ;

3. The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing or making up by another enterprise ;
4. The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or collecting information for the enterprise ;
5. The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information or for the conduct of scientific research or of similar activities of a preparatory or subsidiary character on behalf of the enterprise ;

(*c*) A person—other than an agent of independent status within the meaning of (*d*)—acting in one of the two States on behalf of an enterprise of the other State shall be deemed to be a permanent establishment in the first-mentioned State if he has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

(*d*) An enterprise of one of the two States shall not be deemed to have a permanent establishment in the other State merely because it carries on business in the other State through a broker, general commission agent or any other agent of independent status, where such person is acting in the ordinary course of his business.

(*e*) The fact that a company which is a resident of one of the two States controls or is controlled by a company which is a resident of the other State or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

(4) The term "dividends" means income derived from shares, mining shares (*Kuxe*), profit-participation certificates (*Genußscheine*), shares in private limited companies (*Gesellschaften mit beschränkter Haftung*) and colonial companies (*Kolonialgesellschaften*) and income derived by a sleeping partner from his participation as such, provided that he has no share in the assets of the enterprise. Distributions made on shares in an investment trust (*Kapitalanlagegesellschaft*) shall also be deemed to be dividends.

(5) The chief taxation authorities are, in the case of the Federal Republic of Germany, the Federal Minister of Finance ; in the case of the Kingdom of Sweden the Ministry of Finance or the authority delegated to deal in its stead with questions relating to this Agreement.

(6) In the application of this Agreement by either State, any term not defined in the Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes which are the subject of this Agreement.